

IN THE UNITED STATES DISTRICT COURT FOR
THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

DEMARCUS GENE HUBERT

§

Plaintiff,

§

vs.

§ CIVIL ACTION NO.: 4:24-cv-02138

WILLIAMS BROTHERS
CONSTRUCTION CO., INC.

§

Defendant.

§

**DEFENDANT WILLIAMS BROTHERS CONSTRUCTION CO. INC.’S NOTICE OF
OBJECTION TO PLAINTIFF DEMARCUS GENE HUBERT’S
NOTICE OF VOLUNTARY DISMISSAL WITHOUT PREJUDICE**

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, Williams Brothers Construction Co., Inc., hereinafter referred to as the “Defendant”, and respectfully files and submits to this Honorable Court with respect to the above-referenced and numbered cause this its Notice of Objection to Plaintiff Demarcus Gene Hubert’s Notice of Voluntary Dismissal Without Prejudice, as follows:

1. At 1:35 p.m. on Friday, October 4, 2024, The Plaintiff Demarcus Gene Hubert, hereinafter referred to as the “Plaintiff”, served a pleading upon the undersigned counsel for the Defendant which he entitled as his Notice of Voluntary Dismissal Without Prejudice. Attached hereto and incorporated herein as though fully set forth at length as Exhibit “A”. At this juncture and after examining this Honorable Court’s Docket Report, it does not appear as though the Plaintiff has filed the foregoing pleading, but the Defendant was cognizant of the fact that the Plaintiff has previously effected filing manually. Notably, the Plaintiff cites to and relies upon Fed. R. Civ. P. 41(a) (1) (A) (i) which essentially states that the Plaintiff is only empowered to

unilaterally dismiss his Complaint in the event that neither an “answer or a motion for summary judgment” has been filed by the opposing party. In the above-referenced and numbered cause, the Defendant filed its Answer on June 18, 2024. As a consequence, the Plaintiff must seek a “stipulation of dismissal” signed on behalf of the Defendant pursuant to the provisions of Fed. R. Civ. P. 41(a) (1) (A) (ii) in order to achieve the dismissal of the above-referenced and numbered cause absent “a court order”. The Defendant, therefore, provides its Notice to this Honorable Court of its Objection to the Plaintiff’s attempt to obtain a voluntary dismissal of his Complaint without prejudice to its future re-filing.

2. The Defendant is most assuredly in favor of the Plaintiff’s voluntary dismissal of his Complaint, but only in the event that such dismissal was with prejudice. The Defendant has incurred expense as a consequence of the Plaintiff’s initiation of the above-referenced and numbered cause and does not wish to expose itself to the possibility of the Plaintiff exerting efforts to re-file a Complaint at any time in the future.

3. At this juncture, this Honorable Court has scheduled an Initial Pre-Trial Conference to commence at 10:00 a.m. on October 9, 2024. Because the Plaintiff is appearing pro se, the Defendant believes that the interests of justice shall be best served by allowing for the foregoing proceeding to occur during which time the Plaintiff’s foregoing effort and the ramifications thereof may be discussed.

WHEREFORE, PREMISES CONSIDERED, the Defendant respectfully requests that this Honorable Court receive and accept this its Notice of Objection to Plaintiff Demarcus Gene Hubert’s Notice of Voluntary Dismissal Without Prejudice.

Respectfully submitted,

MUNSCH HARDT KOPF & HARR, P.C.,

By: /s/ Daniel D. Pipitone

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**ATTORNEYS FOR DEFENDANT
WILLIAMS BROTHERS
CONSTRUCTION COMPANY**

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been served on all parties by means of ECF on this this 4th day of October, 2024.

VIA E-MAIL – demarcusghubert@gmail.com

Demarcus Gene Hubert

8214 Lawn St.

Houston, Texas 77088

/s/ Daniel D. Pipitone

Daniel D. Pipitone